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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 324 of 2005
Date of decision: 23.8.07

Shishpal Singh **...Appellant**

Versus

Ramesh Kumar **...Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. H.S.Sirohi, Advocate for the appellant.

Mr. S.C.Arora, Advocate for the respondent.

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RAJESH BINDAL, J.

This is defendant's second appeal against the concurrent findings of fact recorded by both the Courts below where a suit for recovery filed by the respondent-plaintiff against the appellant-defendant was decreed.

In a suit for recovery of Rs. 4,25,385/- filed by the respondent against the appellant, learned trial Court after appreciating evidence on record decreed the same only to the extent of Rs. 3,14,250/-. The appellant accepted number of entries entered in the Bahi maintained by the respondent on account of receipt of certain amount from the respondent, however, he denied one entry showing an amount of Rs. 2,90,000/-. The defence put by the appellant-defendant was disbelieved by the learned Courts below for the reason that the appellant, on the one hand, stated that he had been maintaining parallel books of accounts and the same are lying in his house but never produced the same. It was a vague statement made by him to deny the bahi entry maintained by the respondent in due course of business. Even the signatures of the appellant in bahi were compared with other sample signatures and the same were found to be matching. No convincing evidence was led by the respondent. The argument of the learned counsel for the appellant that merely entry in the books of accounts is not sufficient to charge a person with liability also does not carry any

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weight as in the present case it is not merely entry rather the signatures of the appellant in the bahi as a token of receipt of the amount were also proved. The bahi on which the signatures are obtained by the Katcha Arties are maintained in due course of their business on which all the entries regarding receipt and payments are made and signature of the recipient of the amount are also obtained thereon as no separate receipt book etc. are maintained. The claim put by the appellant in the written statement that he did not owe any amount from the respondent was falsified by his own admission later on, when he stated that he was ready and willing to account for all the entries except the entry of Rs. 2,90,000/-.

In these facts on record, I do not find any reason to differ with the concurrent findings of fact recorded by both the Courts below. Accordingly, the appeal is dismissed.

August 23 , 2007 **(Rajesh Bindal)**
Pka **Judge**